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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3865 OF 2007

Ravindranath Harishchandra Angre .. Applicant

V/s

The State of Maharashtra .. Respondent

Mr.A.P. Mundargi i/b Mr.S.D. Nangre for the applicant.
Mr.K.V. Saste, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 7TH DECEMBER 2007

P.C. :

1. Heard Mr.Mundargi for the applicant and the learned A.P.P. for the State.

2. This application under section 438 of Cr.P.C. is made by the applicant for anticipatory bail in connection with C.R. No.I-445 of 2007 registered with Navpada Police Station, Thane for the alleged offences punishable under sections 323, 392, 384, 504, 506 read with 34 of the I.P.C. and sections 3 and 25 of the Arms Act.

2. The applicant is a police officer holding a substantive rank of Police Inspector and presenting officiating as Deputy Superintendent of Police.

3. Briefly the case of the prosecution is as follows:-

. On 19th October 2007, a complaint (First Information Report) was lodged against the applicant by Mr.Ganesh Suresh Wagh alleging various offences committed by the applicant. The gravamen of the allegations against the applicant are that the complainant and the applicant's wife had in the past business relations. Certain disputes had arisen between the complainant and the applicant's wife regarding development of the properties and in particular development of Krida Sankul at Thane. The applicant was pressurising the complainant for transfer of the work of development of Krida Sankul to his wife and on account of refusal by the complainant so to do, the applicant has been harassing and threatening him and his family members. Inter alia, the allegations of harassment and threats are as under:-

(a) In April 2007, the applicant went to the office of one Vijay Shetty, Chartered Accountant of the complainant and called the complainant's brother Mahesh

and another partner Anil Bhatia in his office. There, Mahesh and Anil Bhatia were assaulted by the applicant in the presence of Mr.Vijay Shetty,

(b) (i) In June 2007, the applicant came to the house of the complainant and pointed a gun with steel coating on the head of the complainant's brother Mahesh and threatened to kill him. Thereafter, he assaulted Mahesh by beating him with hands and legs.

(b) (ii) After the threats and assault on Mahesh as mentioned above, the applicant forcibly obtained signatures of the complainant on a few stamp papers and blank papers.

(b) (iii) Thereafter, while going, the applicant and three goondas who accompanied him took away complainant's two motor vehicles, one Scorpio bearing registration No.MH04/CT/234 and another Santro Car of the complainant's brother-in-law bearing registration No.MH04/CJ/818. The said motor vehicles were subsequently found abandoned by the police.

(c) The complainant narrated the aforesaid incident to the local Member of Legislative Assembly, Mr.Eknath Shinde. Mr.Shinde tried to pacify the applicant. Due to this, the applicant got angry and came to the house

of the complainant along with a bottle of poison. He then started coaxing the complainant to consume poison and write a chit that he was committing suicide on account of M.L.A. Eknath Shinde. When the complainant refused to comply, the applicant threatened the complainant that he was an encounter specialist and would kill the children of the complainant. He further boasted that he was a millionaire and had relations with several gangsters. He had made several encounters accepting money from gangsters. The said gangsters would certainly kill the complainant, if requested by the applicant.

(d) On 18th October 2007, the applicant made threatening telephone calls to the complainant, inter alia, from Mobile No.9892960151 and other numbers.

4. The applicant apprehends he would be arrested in connection with the investigation of the aforesaid crime and prays for an anticipatory bail.

5. Learned A.P.P. for the State strongly opposed the grant of anticipatory bail. He submitted that the presence of the applicant was necessary for custodial investigation, inter alia, on the following points:-

(i) There is prima facie evidence that the applicant

threatened the brother of the complainant in the office of the Chartered Accountant Mr.Vijay Shetty. There were at least two eye witnesses, one of whom is an independent witness, namely Mr.Vijay Shetty.

(ii) Thefts of two motor vehicles, one Scorpio and another Santro, appear to have been committed by the applicant. The said vehicles were found abandoned subsequently. There are two eye witnesses who have seen the applicant and the persons who accompanied him taking away the said two motor vehicles. One of the eye witnesses is the watchman of the society and another is a driver of another car parked in the society.

(iii) Names and whereabouts of the three persons who had accompanied the applicant were unknown. For ascertaining their names and whereabouts, custodial investigation of the applicant is necessary.

(iv) It is an allegation that a firearm with steel coating was used for giving threats to the brother of the complainant. Such weapons are not given to the police officers on duty. It is necessary to find out how the applicant got possession of such a firearm and where it was kept. As the applicant does not have any licence for possession of such a firearm, custodial investigation of the applicant is necessary.

(v) The bottle containing poison, which was brought by the applicant, is yet to be recovered. The applicant's interrogation is necessary for that purpose also.

(vi) Verification of the telephone record shows that at least one call was made to the complainant/his wife from Mobile No.9892960151. It is alleged that there were threats given by the applicant, inter alia, from this phone. The said phone number stands in the name of Mr.Clavin P. Noronha. In his statement, Mr.Clavin Noronha has stated that he had never purchased or acquired a SIM card of that number and does not know who had obtained the telephone connection in his name and was using it. According to the police, interrogation of the applicant is also necessary for the purpose of finding out how the applicant came in possession of the said SIM card and why was he using the telephone with the SIM card in a different name.

6. Since the matter is at the stage of considering an application for anticipatory bail, it is not necessary to consider the allegations in detail. Suffice it to say that there are specific allegations against the applicant, which, if believed, tend the complicity of the applicant into one or more crimes.

Considering the submissions of the learned A.P.P., it appears that the applicant would be in a position to throw light on many aspects of the investigation and the custodial interrogation of the applicant appears necessary for aiding the investigation into the alleged crimes. In the circumstances, this is not a fit case for grant of anticipatory bail to the applicant when the investigation is in progress. Accordingly, the application for anticipatory bail is rejected. Interim order passed by me on 3rd December 2007 granting interim protection is vacated.

7. It is clarified that all observations made hereinabove are only for the purpose of considering the present application for anticipatory bail and if the applicant is arrested and an application for regular bail is made to the appropriate court, the same shall be considered on its own merits without being influenced by any of the observations made herein.

8. At the request of the learned counsel for the applicant, the applicant is granted time till 11th December 2007 to surrender on condition that he shall not make any inducement nor shall he make any threats to the complainant or the relatives of the complainant in any manner.

(D.G. KARNIK, J.)